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SENATE

REPORT
99-329

AMENDING THE NATIVE AMERICAN PROGRAMS ACT OF 1974 TO AUTHORIZE APPROPRIATIONS FOR FISCAL YEARS 1987 THROUGH 1990

JUNE 26 (legislative day, JUNE 23), 1986.—Ordered to be printed

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Mr. ANDREWS, from the Select Committee on Indian Affairs, submitted the following

REPORT

[To accompany H.R. 3247]

The Select Committee on Indian Affairs, to which was referred the bill (H.R. 3247) to amend the Native American Programs Act of 1974 to authorize appropriations for fiscal years 1987 through 1990, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

H.R. 3247, the Native American Programs Amendments of 1986, would extend programs under the Native American Act of 1974, through fiscal year 1990, and authorize appropriations for fiscal years 1987, 1988, 1989, and 1990.

BACKGROUND AND NEED

The Native American Programs Act, which was passed in the 93rd Congress, established the Administration for Native Americans (ANA) within the Department of Health, Education and Welfare. The ANA is now constituted in the Department of Health and Human Services. Its legislative mandate is to promote economic and social self-sufficiency for American Indians, Alaskan Natives, and Native Hawaiians.

According to the 1980 census, there are 1.4 million American Indians in the United States. Although there is considerable mobility between reservation and urban areas, it is estimated that about one-half live on Indian reservations or in rural areas near those

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reservations; the other one-half live in urban areas or away from reservations. It is also well-documented that American Indians and Alaskan Natives rank lowest in all indicators of social and economic well-being. For example, Native Americans suffer from the poorest health, the worst housing, the highest school drop-out rates, and the greatest levels of unemployment. These conditions are related to social and economic underdevelopment, and hence, the need for federal programs that can assist Native American communities and their families to become self-sufficient.

The ANA mission is to fund programs aimed at providing community or tribal self-sufficiency. The ANA program defines self-sufficiency as the level of development at which a Native American community can control and internally generate resources to provide for the needs of its members and meet its own short and long range social and economic goals. It is the only agency within the Department of Health and Human Services which serves all Native Americans; without regard to where they live or their tribal or group affiliation. Its constituents include American Indians, Native Hawaiians, and Alaska Natives. The ANA has a broad mission which involves cooperative efforts with other Federal agencies to avoid duplication of programs and to maximize Federal dollars. The program operates under the philosophy that no Federal program, acting alone or in concert with other Federal programs can achieve self-sufficiency for Native American tribes or groups. The ANA programs promote the concept that self-sufficiency can be achieved only when Native Americans plan, design, and operate their own social and economic programs which address the particular needs of their communities. The ANA policies are designed to support this approach at the community level through the following goals:

(1) Governance—to strengthen Tribal governments, Native American institutions and local leadership to assure local control over all resources.

(2) Economic Development—to foster the development of stable, diversified local economies which provide jobs and reduce dependency on social services.

(3) Social Development—to support access to, and coordination of, services and programs which safeguard the health and well-being of Native Americans, and which are essential to a thriving and self-sufficient community.

The Native American constituency is diverse in terms of its culture, legal status, size, resources, level of community development, and eligibility for federal services. The diversity of the distinctions many times is confusing and has resulted in serious gaps in services or assistance to Native Americans. The ANA has the statutory authority to bridge these confusing and complex relations between the Native American groups and the federal government. The flexibility of the program has given many tribes and groups access to federal assistance and has brought them closer to their goals of social and economic self-sufficiency. Unlike the Bureau of Indian Affairs and the Indian Health Service, both major sources of Federal Indians services, the ANA program provides assistance to nonfederally recognized and terminated Indian tribes, as well as other

off-reservation Indian organizations, including urban Indian centers.

The Native American Programs Act of 1974 was originally enacted on January 4, 1975 (P.L. 93-644). Among federal programs, the Act is unique in providing assistance for the benefit of Native Americans. Consequently, the Act was extended in 1978 (P.L. 95-568), 1981 (P.L. 97-35), and 1984 (P.L. 98-558).

When the ANA first began, the emphasis of the program was primarily to support the core administration for tribal governments and Native American organizations. Its secondary emphasis was to support local access to social services or to fill gaps in those services. Since that time, the program has moved towards a larger objective of improving the social and economic development of tribes and other native organizations. In 1980, the ANA began the implementation of a new initiative called Social and Economic Development Strategy (SEDS) which encourages tribes and native organizations to develop projects that promote social and economic development based upon the needs of the various groups.

Assistance under section 803 is provided through grants and contracts to a broad range of eligible native entities, including the governing bodies of Indian tribes on Federal and state reservations, Alaskan Native villages and regional corporations, public and private nonprofit agencies serving Hawaiian Natives, and Indian organizations in urban and rural off-reservation areas. Examples of program objectives under section 803 grants include: Increased employment of Native Americans; Indian business development; strengthening of tribal government functions; construction and renovation of housing units; and Alaskan Native village development.

The ANA programs authorize training and technical assistance for the purpose of assisting eligible entities in developing and administering projects; and Research, demonstration and evaluation is authorized to assist in the development of new approaches that will enhance the social and economic development of local Native American communities.

Explanation of the Bill

H.R. 3247, as introduced, reauthorized the Native American Programs Act of 1974 through fiscal year 1990. The bill authorizes appropriations for fiscal years 1987, 1988, 1989, and 1990. H.R. 3247, as passed by the House of Representatives, added new provisions related to applications for assistance and rulemaking.

Section 2 of the bill contains two provisions related to applications for assistance. The first amends section 803 to authorize the Administration for Native Americans (ANA) to award multi-year grants. For grantees attempting to operate projects which require more than one year of funding, having to apply and compete every year presents unnecessary difficulties. Thus, the Committee's intent is that this type of grant be available to those applicants who can demonstrate that a limitation of the grant to one year would significantly reduce their project's effectiveness. In addition, the applicant should be required to include a specific multi-year plan with the application. The review of continuation applications

is not a competitive process, it is not subject to the peer review procedures required in section 2(4) of the bill. Thus, ANA can focus its review of the continuation applications (for the additional years of the grant period) on whether (1) the project plan is consistent with the multi-year plan approved as a part of the original application, (2) the grantee made satisfactory progress in the prior year, and (3) the grantee has satisfied all applicable financial and program reporting requirements. The Commissioner should give first priority to funding continuation grants. Although there is no limitation in the bill on the duration of multi-year grant awards, the Committee recommends a maximum of three years.

The second provision in section 2 requires ANA to formally establish its current peer review (i.e., field reader) process for reviewing applications for assistance. Consistent with ANA's current practice, the amendment also requires that, in selecting peer reviewers, the Commissioner give preference to American Indians, Hawaiian Natives, and Alaskan Natives. In no case may any official or employee of ANA sit on a peer review panel. Following the review of applications, each peer review panel must rank them in the order of their relative merit. These lists will be submitted to the Commissioner.

The bill leaves to the Commissioner's discretion the method to be used in combining the lists if more than one peer review panel is used. Additionally, the Commissioner may select any of the applications for funding in any order he chooses. The Committee wishes to strongly emphasize that there is no intention to limit the Commissioner's grant making discretion. What the amendment provides is that, in each instance that he selects an application for funding ahead of another application which the peer review panel(s) identified as superior in merit, he must make a record explaining the reasons for his selection. These reasons must detail why he selected this application and why he did not select the other application(s) ranked superior in merit. After the Commissioner makes the grant awards, he is required to submit to the Committee and to the Senate the following documents: (1) the rankings submitted to the Commissioner by the peer review panel(s); (2) a list of the applications approved for awards; and (3) the record containing the Commissioner's reasons for deciding not to follow the list of ranked applications. It is not the intention of the Committee to require the routine submission of such materials as grant application or ratings applications by individual peer reviewers.

Section 3 amends the Act by establishing a new section 814 with five new rulemaking provisions. The first provision makes the Native American Programs Act subject to the Administrative Procedure Act. The result is that ANA must publish in the *Federal Register,* as a notice of proposed rulemaking, all changes in general statements of policy, application requirements or priorities, other grantee or program requirements, as well as any changes in ANA organization, procedure, or practice. ANA must also afford interested parties at least thirty days to comment on the proposed rule before it can be published in final form. This is intended to curtail the ANA practice of simply announcing changes in policy or specific requirements without public comment. An example of this was

contained in the August 12, 1985 program announcement (50 *Federal Register* 32542)—"The following activities are inconsistent with the policies of ANA: . . . ('third party T/TA')." Although not prohibited by section 805 of the Act, ANA nonetheless decided that they would not support this method of providing training and technical assistance without soliciting Indian/Alaskan/Hawaiian input. This type of policymaking is clearly not consistent with the Federal policy of Indian Self-Determination.

The second provision in section 3 requires ANA to place in all published rules, citations of legal authorizing the particular action. Legal authority includes applicable statutes, regulations, case law, executive orders, and Office of Management and Budget Circulars.

The third provision provides that, when it becomes necessary or appropriate to issue a rule following the enactment of a law, the new rule must be published in final form within six months.

The fourth provision requires ANA to transmit a copy of each published rule to the House of Representatives and to the Senate.

The fifth provision amends the Act's definitions by stipulating that the meaning of the term "rule" used in the Act is the same as the one used in the Administrative Procedure Act.

The Committee remains concerned about ANA's responsiveness to urban concerns, the lack of which has contributed to the decreasing number of urban grants. More attention should be given to these grantees in both policy and technical assistance contexts.

Special Issue

Although provisions are not included in H.R. 3247 that addresses the following specific issue, the Committee would like to provide the Administrative for Native American program with this directive:

> Section 804 of the Act authorizes training and technical assistance activities. The purpose of this Section was to assist eligible entities in developing and administering projects funded under the Act, and by providing short-term in-service training for project personnel. The Committee is concerned to learn that ANA training and technical assistance is provided almost exclusively to either current ANA grantees or to those tribes and/or organizations which have applied for funding, but who have been turned down. It is also the current policy of ANA to not fund third-party technical assistance providers. This policy change was made without comment from the tribes which clearly is not consistent with the Federal Policy of Indian Self-Determination.
>
> Tribes applying for funding for the first time receive no technical assistance except for regionally sponsored sessions which describe the application process only. The Committee directs the Commissioner of ANA to consider non-profit third-party technical assistance proposals designed to directly assist tribes who are applying for a first-time grant or who have been denied funding in the past. When awarding such a grant, the Commissioner should consider the geographical areas which would be served by

the grantee providing the technical assistance. First priority in the awarding of technical assistance grants should be given to those technical assistance providers which would serve areas where tribes have been under-represented in receiving ANA grants in the past.

Legislative History

Congressman Dale E. Kildee introduced H.R. 3247 on September 9, 1985. H.R. 3247 was referred to the Committee on Education and Labor. The Subcommittee on Human Resources held a hearing on reauthorization of the Native American Programs Amendments of 1986 on September 12, 1985 and on February 24, 1986. On March 20, 1986, the Subcommittee marked-up H.R. 3247. On April 10, 1986, the Committee on Education and Labor reported the bill favorably, with an amendment. The House of Representatives passed H.R. 3247 on April 21, 1986. A companion bill, S. 1991, was introduced on December 19, 1985 by Senator Andrews, for himself and Senators Melcher, Abdnor, Burdick, DeConcini, Inouye, Murkowski, and Goldwater. S. 1991 was referred to the Select Committee on Indian Affairs, which held a hearing on the bill on April 22, 1986. On May 14, 1986, the Select Committee on Indian Affairs marked-up and ordered reported favorably, H.R. 3247, without amendment.

Committee Recommendation and Tabulation of Vote

The Select Committee on Indian Affairs, in open business session on May 14, 1986, with a quorum present recommends by a unanimous vote that the Senate pass H.R. 3247, without amendment.

Section-by-Section Analysis

Section 1. Provides that the title of this Act may be cited as the "Native American Programs Amendments of 1986."

Section 2. Amends section 803(a) to permit the Secretary to award grants on a single year or multiyear basis, and provides that the Secretary shall establish a formal peer review process for the purpose of evaluating applications for assistance and provides that certain review documents shall be provided to the Congress following the awarding of grants.

Section 3. Provides that the program authorized by this Act shall be subject to the Administrative Procedure Act, and clarifies the definition of the term "rule."

Section 4. Amends section 816(a) to extend the authorization of appropriations through fiscal year 1990.

Cost and Budgetary Consideration

The cost estimate for H.R. 3247, as provided by the Congressional Budget Office, are outlined below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 21, 1986.

Hon. MARK ANDREWS,
Chairman, Select Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 3247, the Native American Programs Amendments of 1986, as ordered reported by the Senate Select Committee on Indian Affairs on May 13, 1986.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

RUDOLPH G. PENNER,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 3247.
2. Bill title: Native American Programs Amendments of 1986.
3. Bill status: As ordered reported by the Senate Select Committee on Indian Affairs, May 13, 1986.
4. Bill purpose: The purpose of this bill is to amend and extend the authorization for appropriations for Native American Programs through 1990. This bill is subject to subsequent appropriations action.
5. Estimated cost of the Federal Government:

[By fiscal year, in millions of dollars]

	1987	1988	1989	1990	1991
Estimated authorization level	30.6	32.3	34.0	35.8	.....
Estimated outlays	11.0	28.8	32.7	34.5	22.8

The costs of this bill fall within function 500.

Basis of Estimate: This bill authorizes financial assistance to public and nonprofit private agencies for projects to promote self-sufficiency for Native Americans. The program is authorized at such sums as may be necessary. The 1986 appropriation level, adjusted for inflation, was used to estimate authorization levels. Outlay estimates were made assuming full appropriation of estimated authorization levels. Outlays reflect the current spending pattern of these programs.

6. Estimated cost to State and local government: The Congressional Budget Office has determined that the budgets of state and local governments would not be affected directly by the enactment of this bill.
7. Estimate comparison: None.
8. Previous CBO estimate: This version of H.R. 3247 is identical to the version that was passed by the House of Representatives on April 21, 1986. CBO submitted the original cost estimate of the bill

to the House Committee on Education and Labor on April 16, 1986. This estimate contains no changes from the original.

9. Estimate prepared by: Ken Pott.

10. Estimate approved by: C.G. Nuckolz (for James L. Blum, Assistant Director for Budget Analysis).

Regulatory Impact Statement

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompaning a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that H.R. 3247 will have a minimal impact on regulatory or paperwork requirements.

Executive Communications

The only Executive Communication received by the Committee was in the form of testimony offered at the April 22, 1986, hearing by William Lynn Engles, Commissioner, Administration for Native Americans, Office of Human Development Services, Department of Health and Human Services. The statement follows:

Statement by William Lynn Engles, Commissioner, Administration for Native Americans, Office of Human Development Services

Mr. Chairman and Members of the Committee: Thank you for the opportunity to present an overview of the work of the Administration for Native Americans and to comment on our proposal to extend the Native American Programs Act.

The Native American Programs Act promotes self-sufficieny for American Indians, Alaska Natives and Native Hawaiians by encouraging local strategies in social and economic development. We consider social and economic underdevelopment to be the paramount obstacle to the self-sufficiency of Native American communities and families.

Social and economic underdevelopment contributes to high unemployment, high school dropout rates, poor health, and other problems which affect Native Americans to a greater degree than almost any other population group. The lack of a strong diversified economic base has made Native American communities especially dependent on Federally-designed, Federally-funded and Federally operated programs.

I would like to address the Administration's proposal to extend the Native American Programs Act. The reauthorization basically extends the current law. In addition to the extension, the Administration is requesting that Section 803 of the act be amended to allow for-profit private organizations established by Native Americans to compete for financial assistance grants (Section 803). Currently only public and private non-profit organizations are allowed to participate. Many Native American communities

are reaching the stage in their economic and social development at which they can create profit-making entities to carry out developmental activities. These "for profit" arms of the community generate jobs for Native Americans, are a source of revenue for the community, and can attract needed capital from outside the community more readily than can a tribally-managed business.

Removal of the non-profit restriction would support the Department's initiative to remove legislative and regulatory barriers to grants to for-profit organizations. This would also help the program achieve its objectives by increasing the number of Native American organizations eligible to participate in the program.

Reauthorization of the existing law will enable the Administration for Native American's strategy for social and economic development to continue to make measurable impact on self-sufficiency for Native Americans.

The Administration for Native Americans programs and policies foster a balanced developmental approach at the community level through three major goals.

(1) To help develop or strengthen tribal governments, Native American institutions and local leadership to assure local control over all resources;

(2) To foster stable, diversified local economies to provide jobs and reduce dependency on social services; and

(3) To support access to and coordination of programs and services which safeguard the health and well-being of a community and its people.

These goals are based on the premise that the local community has the primary responsibility for determining its own needs, planning and implementing its own programs, and building a strong economic base through effective use of its own natural and human resources.

The Administration Native Americans' funding policy is to assist Indian Tribes and Native American organizations to plan and implement their own long-term strategies for social and economic development. This funding approach moves the focus from increasing dependency on social services to increasing the productivity of both individuals and communities.

Panels of outside individuals review and rate all applications for financial assistance funds according to published criteria and seek to identify those proposals most likely to produce permanent, beneficial change for Native American communities. Applicants must state specific, measurable goals based on the developmental needs of the community. After funding, grantees must report what they have accomplished based on the goals they set.

Tribes and organizations are finding that Social and Economic Development Strategies provide the means through which lasting change may take place. In the past three years the policy has benefited all of the groups ANA was established to serve.

It has met with success in Indian tribes, Alaskan villages, Hawaiian communities and urban organizations. Given determination and motivation on the part of the community, SEDS strategies have worked regardless of the local resources which are available, the level of political development of the community, or the social or economic needs of local people.

There are many success stories involving our grantees. Three of them are:

ANA's grant to the Fond du Lac Tribe enabled the Fond du Lac Manufacturing Company (FLM) to secure a contract for $1,983,887 with the U.S. Postal Service to produce postal vending machines and a contract for $275,000 with the General Services Administration to manufacture specialized storage equipment. These contracts resulted in a 117% increase in sales over 1984 and created 24 full time jobs in the sheet metal, welding, fabricating and painting trades, and management areas.

In addition, the tribe has obtained 8–A certification and has secured $130,000 from the Small Business Administration to purchase additional equipment for the company, greatly increasing production capabilities and efficiencies.

ANA's grant to the Cumberland County Association for Indian People resulted in services provided to 45 existing Indian businesses and establishment of a number of new businesses, including a florist shop, a dry wall construction company, and a roofing repair company. These activities resulted in 24 new jobs with an estimated payroll of $254,000.

ANA's grant to the Coeur d'Alene Tribe enabled them to open a new shopping center in 1985 in Plummer, Idaho. The shopping center's key attractions are the supermarket, one of the largest in the area, and six retail businesses, one of which is an Indian owned enterprise. The new businesses are providing needed products and services to travelers and to both Indian and non-Indian residents of the community. The Center has provided 29 new permanent jobs and rental income to the Tribe. The Tribe is now working on expanding an auto service station, which is expected to open in the Summer of 1986.

The Coeur d'Alene Tribe is also engaged in a joint venture with the private sector, establishing the Tenton/Three River's Rod Company. The company produces fishing rods which will be featured in Eddie Bauer's Spring catalogue. Coeur d'Alene tribal members have already been trained to produce the custom-made rods.

Overall program accomplishments in fiscal year 1985 were significant and include:

The creation of 12,095 jobs for Native Americans resulting from our projects.

The initiation or expansion of 373 Indian, Alaska Native and Native Hawaiian businesses.

The strengthening of the governmental functions of 58 Tribes through the enactment of codes and management improvements.

The construction or renovation of sixty-seven housing units on reservations and in urban areas.

Social and Economic Development Strategies grants aimed at social development often contribute to the tribe's economic development as well. By establishing day care centers and service networks to help the elderly, alcohol abusers, and drug abusers, these grants provide needed social services as well as jobs for tribal members trained in social work. SEDS grants also helped tribes and organizations establish more than one hundred linkages with local governments for the delivery of social services.

Finally, I would like to address briefly H.R. 3247, the proposed ANA reauthorization and amendments now pending in the House of Representatives. We oppose H.R. 3247 because of amendments made in the House committee which would be burdensome and potentially destructive to the ANA program.

One of these amendments requires the Commissioner, ANA, to provide a detailed justification to the Congress for every single grant award made by ANA. Aside from the fact that imposing this requirement on an Executive Branch official is without precedent, we are deeply concerned about being required to discuss individual grant applicant strengths and weaknesses in public documents. Not only will rankings of grant applications in this way become public knowledge, but in any case in which the Commissioner decides not to follow the panel rankings, he will be required to discuss in materials sent to the Congress, the weaknesses and problems of individual tribal organizations. We believe that these requirements will have a chilling effect on the ANA competitive grant process, making new and less experienced organizations as well as many more established organizations hesitant to apply, or justifiably unhappy at having what has up to now been protected information distributed publicly.

The second amendment which concerns us would require that in addition to regulations and grantee announcements which are presently published in the Federal Register, "all changes in general statements of policy, application requirements or priorities, other grantee or program requirements, as well as any change in ANA organization, procedure, or practice" would have to be published in the Federal Register with a 30-day comment period.

Publication of these additional items is far more burdensome than for any other HHS human services program and would create significant obstacles in the way of managing this program and responding to Native American concerns.

This amendment may have been proposed with the positive aim of strengthening Native American organizations' involvement in ANA program policy and decision making. Involvement of our constituency is something that I and Commissioners before me have held as a top priority. Unfortunately, the House amendment would put the ANA program in a straitjacket and make it extremely difficult to respond flexibly and quickly to Native American organization concerns.

One thing we consistently hear from the organizations that we serve is that a major reason for this program's effectiveness is its flexibility, its responsiveness to individual tribal and Native American organization needs. Adoption of these amendments will be a significant step in destroying that flexibility.

I appreciate the opportunity to appear before the Committee. I will be happy to answer any questions you may have at this time.

Changes in Existing Plans

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes the following changes in existing law (existing law proposesd to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no changes is proposed is shown in roman):

Native American Program Act of 1974

* * * * * * *

FINANCIAL ASSISTANCE FOR NATIVE AMERICAN PROJECTS

Sec. 803. (a) The Secretary is authorized to provide financial assistance, *on a single year or multiyear basis*, to public and nonprofit private agencies, including but not limited to, governing bodies of Indian tribes on Federal and State reservations, Alaskan Native villages and regional corporations established by the Alaska Native Claims Settlement Act, and such public and nonprofit private agencies serving Hawaiian Natives, and Indian organizations in urban or rural nonreservation areas, for projects pertaining to the purposes of this title. In determining the projects to be assisted under this title, the Secretary shall consult with other Federal agencies for the purpose of eliminating duplication or conflict among similar activities or projects and for the purpose of determining whether the findings resulted from those projects may be incorporated into one or more programs for which those agencies are responsible. Every determination made with respect to a request for financial assistance under this section shall be made without regard to whether the agency making such request serves, or the project to be assisted is for the benefit of, Indians who are not members of a federally recognized tribe. To the greatest extend practicable, the Secretary shall ensure that each project to be assisted under this

title is consistent with the priorities established by the agency which receives such assistance.

* * * * * * *

PEER REVIEW OF APPLICATIONS AND ASSISTANCE

SEC. 806(c)(1) The Secretary shall establish a formal peer review process for purposes of evaluating applications for financial assistance under sections 803 and 805 and of determining the relative merits of the projects for which such assistance is requested.

(2) Members of peer review panels shall be appointed by the Secretary from among individuals who are not officers or employees of the Administration for Native Americans. In making appointments to such panels, the Secretary shall give performance to American Indians, Hawaiian Natives, and Alaskan Natives.

(b) Each peer review panel established under subsection (c)(2) that reviews any application for financial assistance shall—

(1) determine the merit of each project described in such application;

(2) rank such application with respect to all other applications it reviews for the fiscal year involved, according to the relative merit of all of the projects that are described in such application and for which financial assistance is requested; and

(3) submit to the Secretary a list that identifies all applications reviewed by such panel and arranges such applications according to rank determined under paragraph (2).

(c) Whenever the Secretary approves an application for financial assistance under section 803 or 805, the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives and the President pro tempore of the Senate written notice—

(1) identifying such application;

(2) containing a copy of the list submitted to the Secretary under subsection (b)(2) in which such application is ranked;

(3) specifying which other applications ranked in such list have been approved by the Secretary under sections 803 and 805; and

(4) if the Secretary has not approved each application superior in merit, as indicated on such list, to the application with respect to which such notice is transmitted containing a statement of the reasons relied upon the Secretary for—

(A) approving the application with respect to which such notice is transmitted; and

(B) failing to approve each pending application that is superior in merit, as indicated on such list, to the application described in subparagraph (A).

ANNOUNCEMENT OF RESEARCH, DEMONSTRATION, OR PILOT PROJECTS

SEC. [806.] *807.* (a) The Secretary shall make a public announcement concerning—

(1) the title, purpose, intended completion date, identity of the grantee or contractor, and proposed cost of any grant or contract with a private or non-Federal public agency for a research, demonstration, or pilot project; and

(2) except in cases in which the Secretary determines that it would not be consistent with the purposes of this title, the results, findings, data, or recommendations made or reported as a result of such activities.

(b) The public announcements required by subsection (a) shall be made within thirty days of making such grants or contracts, and the public announcements required by subsection (b) of this section shall be made thirty days of the receipt of such results.

SUBMISSION OF PLANS TO STATE AND LOCAL OFFICIALS

SEC. [807.] *808.* (a) No financial assistance may be provided to any project under section 803 of this title or any research, demonstration, or pilot project under section 805 of this title, which is to be carried out on or in an Indian reservation or Alaskan Native village, unless a plan setting forth the project has been submitted to the governing body of that reservation or village and the plan has not been disapproved by the governing body within thirty days of its submission.

(b) No financial assistance may be provided to any project under section 803 of this title or any research, demonstration, or pilot project under section 805 of this title, which is to be carried out in a State other than on or in an Indian reservation or Alaskan Native village or Hawaiian Homestead, unless the Secretary has notified the local governing official of the political subdivision of the decision of the Secretary to provide that assistance.

(c) No financial assistance may be provided to any project under section 803 of this title or any research, demonstration, or pilot project under section 805 of this title, which is to be carried out in a city, county, or other major political subdivision of a State, other than on or in an Indian reservation or Alaskan Native village, or Hawaiian Homestead, unless the Secretary has notified the local governing officials of the political subdivision of the decision of the Secretary to provide that assistance.

RECORDS AND AUDITS

SEC. [808.] *809.* (a) Each agency which receives financial assistance under this title shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and disposition by that agency of such financial assistance, the total cost of the project in connection with which such financial assistance is given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate and effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any agency which receives financial assistance under this title that are pertinent to the financial assistance received under this title.

APPEALS, NOTICE, AND HEARING

SEC. [809.] *810.* The Secretary shall prescribe procedures to assure that—

(1) financial assistance under this title shall not be suspended, except in emergency situations, unless the assisted agency has been given reasonable notice and opportunity to show cause why such action should not be taken; and

(2) financial assistance under this title shall not be terminated, and application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the assisted agency has been afforded reasonable notice and opportunity for a full and fair hearing.

EVALUATION

SEC. [810.] *811.* (a) The Secretary shall provide, directly or through grants or contracts, for the evaluation of projects assisted under this title, including evaluations that describe and measure the impact of such projects, their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such projects. Evaluations shall be conducted by persons not directly involved in the administration of the program or project evaluated.

(b) Prior to obligating funds for the programs and projects covered by this title with respect to fiscal year 1976, the Secretary shall develop and publish general standards for evaluation of program and project effectiveness in achieving the objectives of this title. The extent to which such standards have been met shall be considered in deciding whether to renew or supplement financial assistance authorized under this title.

(c) In carrying out evaluations under this title, the Secretary may require agenices which receive assistance under this title to provide for independent evaluations.

(d) In carrying out evaluations under this title, the Secretary shall, whenever feasible, arrange to obtain the specific views of persons participating in and served by programs and projects assisted under this title about such programs and projects.

(e) The Secretary shall publish the results of evaluative research and summaries of evaluations of program and project impact, and effectiveness not later than ninety days after the completion thereof. The Secretary shall submit to the appropriate committees of the Congress copies of all such research studies and evaluation summaries.

(f) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with assistance under this title shall become the property of the United States.

LABOR STANDARDS

SEC. [811.] *812.* All laborers and mechanics employed by contractors or subcontractors in the construction, alteration, or repair, including painting or decorating, of buildings or other facilities in connection with projects assisted under this title, shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950, and section 2 of the Act of June 1, 1934.

ADMINISTRATION; DELEGATION OF AUTHORITY

SEC. [812.] *813.* (a)(1) The general administration of the programs authorized by this Act shall remain within the Department of Health and Human Services and, notwithstanding any authority under any other law, may not be transferred outside of such Department.

(2) The Secretary shall continue to administer grants under section 803 through the Administration for Native Americans. The Commissioner of such Administration may not delegate outside of the Administration the functions, powers, and duties of the Commissioner to carry out such section.

(b)(1) Except as provided in subsection (a)(2), the Secretary may delegate only to the heads of agencies within the Department of Health and Human Services any of the functions, powers, and duties of the Secretary under this title and may authorize the redelegation only within such Department of such functions, powers, and duties by the heads of such agencies.

(2) Funds appropriated to carry out this title, other than section 803, may be transferred between such agencies if such funds are used for the purposes for which they are authorized and appropriated.

(c) Nothing in this section shall be construed to prohibit interagency funding agreements made between the Administration for Native Americans and other agencies of the Federal Government for the development and implementation of specific grants or projects.

ADDITIONAL REQUIREMENTS APPLICABLE TO RULE MAKING

SEC. 814. (a) Notwithstanding subsection (a) section 553 of title 5, United States Code, and except as otherwise provided in this section, such section 553 shall apply with respect to the establishment and general operation of any program that provides loans, grants, benefits, or contracts authorized by this title.

(b) The last sentence of section 553(b) of title 5, United States Code, shall not apply with respect to any rule (including any general statement of policy) that is—

(1) proposal under this title;

(2) applicable to any program, project, or activity authorized by, or carrried out under, this title; or

(3) applicable to the organization, procedure, or practice of an agency (as defined in section 551(1) of title 5, United States Code) and that would affect the administration of this title.

(c) Notwithstanding section 553(d) of title 5, United States Code, no rule (or general statement of policy) that—

(1) is issued to carry out this title;

(2) applies to any program, project, or activity authorized by, or carried out under, this title; or

(3) is applicable to the organization, procedure, or practice of an agency (as defined in section 551(1) of title 5, United States Code) and that will affect the administration of this title;

may take effect until 30 days after the publication required under the first 2 sentences of section 553(b) of title 5, United States Code.

(d) Each rule to which this section applies shall contain after each of its sections, paragraphs, or similar textual units a citation to the particular provision of statutory or other law that is the legal authority for such section, paragraph, or unit.

(e) Except as provided in subsection (c) if as a result of the enactment of any law affecting the administration of this title it is necessary or appropriate for the Secretary to issue any rule, the Secretary shall issue such rule not later than 180 days after the date of the enactment of such law.

(f) Whenever an agency publishes in the Federal Register a rule (including a general statement of policy) to which subsection (c) applies, such agency shall transmit a copy of such rule to the Speaker of the House of Representatives and the President pro tempore of the Senate.

DEFINITIONS

SEC. [813.] *815.* As used in this title, the term—

(1) "financial assistance" includes assistance advanced by grant, agreement, or contract, but does not include the procurement of plant or equipment, or goods or services;

(2) "Indian reservation of Alaskan Native village" includes the reservation of any federally or State recognized Indian tribe, including any band, nation, pueblo, or rancheria, any former reservation in Oklahoma, any community under the jurisdiction of an Indian tribe, including a band, nation, pueblo, or rancheria, with allotted lands or lands subject to a restriction against alienation imposed by the United States or any State, and any lands of or under the jurisdiction of an Alaskan Native village or group, including any lands selected by Alaskan Natives or Alaskan Natives organizations under the Alaska Native Claims Settlement Act;

(3) "Native Hawaiian" means any individual any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778; [and]

(4) the term "rule" has the meaning given it in section 551(4) of title 5, United States Code, as amended from time to time; and

[(4)]*(5)* "Secretary" means the Secretary of Health and Human Services.

AUTHORIZATION OF APPROPRITIONS

SEC. [814.] *816.* (a) There are authorized to be appropriated for the purpose of carrying out the provisions of this title, such sums as may be necessary for fiscal year 1979 through [1986.] *1990.*

(b) Not less than 90 per centum of the funds made available to carry out the provisions of this title for a fiscal year shall be expended to carry out section 803(a) for such fiscal year.

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